SUPERIOR COURT OF PENNSYLVANIA

Philip Godlewski v. Brienna DuBorgel

Godlewski, 2025 Pa. Super. 283 (Superior Court of Pennsylvania 2025) · No. 38 MDM 2025 · Decided December 18, 2025

SUMMARY

The Pennsylvania Superior Court dismissed without prejudice a petition for permission to appeal from an interlocutory order concerning partial summary judgment. The court held that a trial court acts on an application to certify an interlocutory appeal when it directs a party to respond, so the application is not deemed denied merely because the court has not yet entered a dispositive order.

CASE DETAILS

COURT	Superior Court of Pennsylvania
WRITING FOR THE COURT	Olson, J.; Stabile, J.; Ford Elliott, P.J.E.
JURISDICTION	Pennsylvania Superior Court
DECIDED	December 18, 2025
DOCKET	38 MDM 2025
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petition for permission to appeal from an interlocutory order granting in part and denying in part the parties' motions for partial summary judgment.
STANDARD OF REVIEW	De novo review with a plenary scope when interpreting the Pennsylvania Rules of Appellate Procedure.
PRECEDENTIAL VALUE	Published precedential opinion of the Superior Court of Pennsylvania.
PARTIES	Philip Godlewski v. Brienna DuBorgel

TOPICS

interlocutory appeal · appellate procedure · statutory interpretation · standard of review · civil procedure

PRACTICE AREAS

civil procedure · appellate procedure · statutory interpretation

QUESTIONS PRESENTED

1. Whether a trial court has acted on an application for certification under Pennsylvania Rule of Appellate Procedure 1311(b) when it directs the opposing party to file a response but has not yet granted or denied certification.
2. Whether the certification application was deemed denied thirty days after filing despite the trial court's directive concerning the application.
3. Whether the petition for permission to appeal should be dismissed as premature without prejudice.

HOLDINGS

1. A trial court acts on an application to certify an interlocutory order when it takes action regarding the application, including directing the opposing party to file a response; the rule does not require the trial court to dispose of the application within thirty days.
2. The petition for permission to appeal was premature because the trial court had acted on, but had not yet disposed of, the certification application.

KEY QUOTATIONS

> *"We hold that, pursuant to Pa.R.A.P. 1311(b) and Pa.R.A.P. 341(c), a request to certify an order for interlocutory appeal is not deemed denied if a trial court has issued a directive related to the certification request within thirty days of the request."* (at 1)

> *"Where, as here, the trial court directs one of the parties to file a response to the application to certify an interlocutory order for appeal, that directive constitutes action vis-à-vis the application."* (at 5)

FACTUAL BACKGROUND

Godlewski sought certification of an interlocutory order for permission to appeal. The trial court directed DuBorgel to respond to the certification application within the applicable thirty-day period, and DuBorgel filed a response. The trial court had not yet entered an order granting or denying certification when the Superior Court considered the petition.

PROCEDURAL HISTORY

The Lackawanna County Court of Common Pleas entered an order on April 17, 2025, entered April 21, 2025, partially granting and partially denying motions for summary judgment. Godlewski timely applied for certification of the order for interlocutory appeal under 42 Pa.C.S. § 702(b) or Pennsylvania Rule of Appellate Procedure 341(c). Within thirty days, the trial court directed DuBorgel to respond, but had not disposed of the certification application when Godlewski filed his petition for permission to appeal. The Superior Court dismissed the petition without prejudice.

DISPOSITION

dismissed

REMAND INSTRUCTIONS

None. The petition was dismissed without prejudice to Godlewski's right to petition for permission to appeal after the trial court disposes of the certification application.

CASES CITED

- Barrick v. Holy Spirit Hosp. of the Sisters of Christian Charity, 32 A.3d 800, 808 (Pa. Super. 2011) (en banc)
- Petow v. Warehime, 996 A.2d 1083, 1089 n.1 (Pa. Super. 2010)
- East Liberty Development, Inc. v. City of Pittsburgh, 323 A.3d 32, 36 (Pa. Cmwlth. 2023)
- Roth Cash Register Co., Inc. v. Micro Sys., Inc., 868 A.2d 1222, 1225 (Pa. Super. 2005)

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